

AMENDED IN ASSEMBLY AUGUST 17, 2009

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN ASSEMBLY JULY 1, 2009

AMENDED IN SENATE MAY 12, 2009

SENATE BILL

No. 813

Introduced by Senator Kehoe

February 27, 2009

An act to add Sections 50517.12, 50650.8, 50862.6, and 50896.4 to the Health and Safety Code, relating to community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 813, as amended, Kehoe. Community development: grant and loan securitization pilot programs.

Under existing law, there are programs providing assistance for, among other things, multifamily housing, emergency housing, farmworker housing, homeownership for very low and low-income households, and downpayment assistance for first-time home buyers administered by the Department of Housing and Community Development. The Joe Serna, Jr. Farmworker Housing Grant Program provides grants and loans for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing to address and remedy the impacts of displacement of farmworker families. The CalHome Program provides grants and loans to enable low- and very low income households to become or remain homeowners. The Building Equity and Growth in Neighborhoods (BEGIN) Program is established to make grants and loans to be used for downpayment assistance to qualifying first-time home buyers of low- and moderate-incomes purchasing newly

constructed homes in a BEGIN project. Existing federal law establishes the HOME Investment Partnership Act, which allocated funds to states and local governments to eligible states to, among other things, expand the supply of affordable housing. The department is the state agency responsible for the state's allocation of HOME funds.

This bill would make legislative findings and declarations relating the securitization of second mortgage loans with funds made available by the department. The bill would require, for the purposes of each of the above programs, a grant or loan for an individual household in a mutual self-help housing program to include a deferred payment grant or loan, respectively, due on sale or transfer, or when the property ceases to be owner-occupied, as specified. The bill would require the department to implement the special grant and loan securitization pilot programs through regulation exempt from a specified provision of existing law. The bill would specify that the pilot programs apply only to specified counties, except that the department may include, in its discretion, other counties in the pilot programs. The bill would provide that the authority for the special grant and loan securitization pilot programs expire on January 1, 2014.

The bill would also make legislative findings and declarations as to the necessity of a special statute.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Many first-time homeowners assisted by nonprofit
- 4 corporations to achieve homeownership through mutual self-help
- 5 construction have been challenged by a combination of costs of
- 6 land purchased before current market conditions arose, low
- 7 appraised values of proposed homes due to foreclosures and related
- 8 economic conditions, and the costs of land, government fees, and
- 9 construction.
- 10 (b) These nonprofit corporations and potential homeowners are
- 11 eligible for financial assistance under the Joe Serna, Jr. Farmworker
- 12 Housing Grant, CalHome, Building Equity and Growth in
- 13 Neighborhoods (BEGIN), and HOME programs administered by
- 14 the Department of Housing and Community Development.

(c) As a result of present market conditions, financing to pay all costs often exceeds the depressed level of current home values. Therefore, neither adequate construction lending nor sufficient permanent financing can be obtained.

(d) Authorizing an alternative but financially sound means of securing second mortgage loans made with funds available through the Department of Housing and Community Development would provide housing for hard-working households, stimulate the construction labor and materials industry, and improve neighborhoods and areas with empty lots.

(e) Because self-help first-time home buyers usually remain in their homes for extended periods of time, an alternative unconventional means of securing loans by utilizing future increases in value when market conditions stabilize should be employed for at least five years in order to allow for orderly resumption and continuation of these first-time homeowner programs.

SEC. 2. Section 50517.12 is added to the Health and Safety Code, to read:

50517.12. (a) For purposes of this chapter, a grant for an individual household in a mutual self-help housing program shall include a deferred payment grant due on sale or transfer, except as provided herein, or when the property ceases to be owner-occupied, which shall be payable only from the difference between the appraised value at the time that the grant made pursuant to this chapter is recorded and the appraised value at the time repayment is due.

(b) ~~The amount of the deferred payment grant specified in subdivision (a) shall not be treated for any purposes as affecting the loan-to-value ratio of the financing on the property at the time the grant is made, and the amount of the grant shall not exceed the difference between the loan secured by a first deed of trust and the total development cost, including an amount attributable to sweat equity as approved by the department, for the home and property secured by that grant.~~ *owner-occupied. The outstanding balance of the grant shall be payable only from the increase in the home's equity, calculated as the difference between the following:*

(1) The appraised value at the time that the grant made pursuant to this chapter is recorded.

(2) The appraised value at the time repayment is due.

1 ***(b) Both of the following shall apply to the amount of the***
2 ***deferred payment grant specified in subdivision (a):***

3 ***(1) The amount shall not be considered by a lender or other***
4 ***source of financing in calculating the loan-to-value ratio of the***
5 ***financing on the property at the time the grant is made.***

6 ***(2) The amount of each grant shall not exceed the difference***
7 ***between the loan secured by a first deed of trust and the total***
8 ***development cost, which shall include an amount attributable to***
9 ***sweat equity as approved by the department, for that grant.***

10 ***(c) If necessary to achieve the housing—costs cost payments***
11 ***required by this chapter—and in order for a household to qualify***
12 ***for a first mortgage, the department shall approve both the deferred***
13 ***payment grant authorized by this section—in addition to and grants***
14 ***or loans otherwise authorized by this chapter. However, the latter***
15 ***grants or loans shall not be secured only by the increase in equity***
16 ***but, instead, shall be payable upon sale or transfer after satisfaction***
17 ***of other approved liens on the property.***

18 SEC. 3. Section 50650.8 is added to the Health and Safety
19 Code, to read:

20 50650.8. (a) For purposes of this chapter, a loan for an
21 individual household in a mutual self-help housing program shall
22 include a deferred payment loan due on sale or transfer, except as
23 provided herein, or when the property ceases to be owner-occupied,
24 ~~which shall be payable only from the difference between the~~
25 ~~appraised value at the time that the CalHome loan is recorded and~~
26 ~~the appraised value at the time repayment is due.~~

27 ~~(b) The amount of the deferred payment loan specified in~~
28 ~~subdivision (a) shall not be treated for any purposes as affecting~~
29 ~~the loan-to-value ratio of the financing on the property at the time~~
30 ~~the CalHome loan is made, and the amount of the deferred payment~~
31 ~~loan shall not exceed the difference between the loan secured by~~
32 ~~a first deed of trust and the total development cost, including an~~
33 ~~amount attributable to sweat equity as approved by the department,~~
34 ~~for the home and property secured by that loan. owner-occupied.~~
35 ~~The outstanding balance of the loan shall be payable only from~~
36 ~~the increase in the home's equity, calculated as the difference~~
37 ~~between the following:~~

38 ~~(1) The appraised value at the time that the CalHome loan is~~
39 ~~recorded.~~

40 ~~(2) The appraised value at the time repayment is due.~~

1 ***(b) Both of the following shall apply to the amount of the***
2 ***deferred payment loan specified in subdivision (a):***

3 ***(1) The amount shall not be considered by a lender or other***
4 ***source of financing in calculating the loan-to-value ratio of the***
5 ***financing on the property at the time the CalHome loan is made.***

6 ***(2) The amount of each deferred payment loan shall not exceed***
7 ***the difference between the loan secured by a first deed of trust and***
8 ***the total development cost, which shall include an amount***
9 ***attributable to sweat equity as approved by the department, for***
10 ***that loan.***

11 ***(c) If necessary to achieve the housing-costs cost payments***
12 ***required by this chapter and in order for a household to qualify***
13 ***for a first mortgage, the department shall approve the deferred***
14 ***payment loan authorized by this section in addition to and loans***
15 ***otherwise authorized by this chapter. However, the latter loans***
16 ***shall not be secured only by the increase in equity but, instead,***
17 ***shall be payable upon sale or transfer after satisfaction of other***
18 ***approved liens on the property.***

19 SEC. 4. Section 50862.6 is added to the Health and Safety
20 Code, to read:

21 50862.6. (a) For purposes of this chapter, a loan for an
22 individual household in a mutual self-help housing program shall
23 include a deferred payment loan due on sale or transfer, except as
24 provided herein, or when the property ceases to be owner-occupied,
25 ~~which shall be payable only from the difference between the~~
26 ~~appraised value at the time that the BEGIN loan is recorded and~~
27 ~~the appraised value at the time repayment is due.~~

28 ~~(b) The amount of the deferred payment loan specified in~~
29 ~~subdivision (a) shall not be treated for any purposes as affecting~~
30 ~~the loan-to-value ratio of the financing on the property at the time~~
31 ~~the BEGIN loan is made, and the amount of the deferred payment~~
32 ~~loan shall not exceed the difference between the loan secured by~~
33 ~~a first deed of trust and the total development cost, including an~~
34 ~~amount attributable to sweat equity as approved by the department,~~
35 ~~for the home and property secured by that loan. If necessary to~~
36 ~~owner-occupied. The outstanding balance of the loan shall be~~
37 ~~payable only from the increase in the home's equity, calculated~~
38 ~~as the difference between the following:~~

39 ~~(1) The appraised value at the time that the BEGIN loan is~~
40 ~~recorded.~~

1 (2) *The appraised value at the time repayment is due.*

2 (b) *Both of the following shall apply to the amount of the*
3 *deferred payment loan specified in subdivision (a):*

4 (1) *The amount shall not be considered by a lender or other*
5 *source of financing in calculating the loan-to-value ratio of the*
6 *financing on the property at the time the BEGIN loan is made.*

7 (2) *The amount of each deferred payment loan shall not exceed*
8 *the difference between the loan secured by a first deed of trust and*
9 *the total development cost, which shall include an amount*
10 *attributable to sweat equity as approved by the department, for*
11 *that loan.*

12 (c) *If necessary to achieve the housing-costs cost payments*
13 *required by this chapter and in order for a household to qualify*
14 *for a first mortgage, the department shall approve both the deferred*
15 *payment loan authorized by this section in addition to and loans*
16 *otherwise authorized by this chapter. However, the latter loans*
17 *shall not be secured only by the increase in equity but, instead,*
18 *shall be payable upon sale or transfer after satisfaction of other*
19 *approved liens on the property.*

20 SEC. 5. Section 50896.4 is added to the Health and Safety
21 Code, to read:

22 50896.4. (a) For purposes of this chapter, a loan for an
23 individual household in a mutual self-help housing program shall
24 include a deferred payment loan due on sale or transfer, except as
25 provided herein, or when the property ceases to be owner-occupied,
26 ~~which shall be payable only from the difference between the~~
27 ~~appraised value at the time that the HOME loan is recorded and~~
28 ~~the appraised value at the time repayment is due.~~

29 ~~(b) The amount of deferred payment loan specified in~~
30 ~~subdivision (a) shall not be treated for any purposes as affecting~~
31 ~~the loan-to-value ratio of the financing on the property at the time~~
32 ~~the HOME loan is made, and the amount of the deferred payment~~
33 ~~loan shall not exceed the difference between the loan secured by~~
34 ~~a first deed of trust and the total development cost, including an~~
35 ~~amount attributable to sweat equity as approved by the department,~~
36 ~~for the home and property secured by that loan. owner-occupied.~~
37 *The outstanding balance of the loan shall be payable only from*
38 *the increase in the home's equity, calculated as the difference*
39 *between the following:*

1 (1) *The appraised value at the time that the HOME loan is*
2 *recorded.*

3 (2) *The appraised value at the time repayment is due.*

4 (b) *Both of the following shall apply to the amount of the*
5 *deferred payment loan specified in subdivision (a):*

6 (1) *The amount shall not be considered by a lender or other*
7 *source of financing in calculating the loan-to-value ratio of the*
8 *financing on the property at the time the HOME loan is made.*

9 (2) *The amount of each deferred payment loan shall not exceed*
10 *the difference between the loan secured by a first deed of trust and*
11 *the total development cost, which shall include an amount*
12 *attributable to sweat equity as approved by the department, for*
13 *that loan.*

14 (c) *If necessary to achieve the housing—costs cost payments*
15 *required by this chapter—and in order for a household to qualify*
16 *for a first mortgage, the department shall approve both the deferred*
17 *payment loan authorized by this section—in addition to and loans*
18 *otherwise authorized by this chapter. However, the latter loans*
19 *shall not be secured only by the increase in equity but, instead,*
20 *shall be payable upon sale or transfer after satisfaction of other*
21 *approved liens on the property.*

22 SEC. 6. (a) *The Department of Housing and Community*
23 *Development shall implement the special grant and loan*
24 *securitization pilot programs authorized by Sections 2, 3, 4, and*
25 *5 of this act through regulations that shall be exempt from Chapter*
26 *3.5 (commencing with Section 11340) of Part 1 of Title 2 of the*
27 *Government Code, following at least one consultation with the*
28 *program sponsors who will receive, and represent the homeowners*
29 *benefiting from, the special—grant or loan grants and loans*
30 *authorized by this act. In developing these regulations and related*
31 *transactional documents and implementing the programs in*
32 *Sections 2, 3, 4, and 5, the department also may utilize other forms*
33 *of securitization that achieve the self-help housing goals and*
34 *objectives of Section 1 of this act.*

35 (b) *The special grant and loan securitization pilot programs*
36 *established by this act shall apply to any existing contract with a*
37 *local government or nonprofit entity for funds under the Joe Serna,*
38 *Jr. Farmworker Housing Grant Program (Chapter 3.2; (commencing*
39 *with Section 50517.5) of Part 2 of Division 31 of the Health and*
40 *Safety Code),—CalHOME CalHome Program (Chapter 6*

1 (commencing with ~~section~~ *Section* 50650) of Part 2 of Division
2 31 of the Health and Safety Code), Building Equity and Growth
3 in Neighborhoods (BEGIN) *program* (Chapter 14.5 (commencing
4 with Section 50860) of Part 2 of Division 31 of the Health and
5 Safety Code), or HOME program (Chapter 16 (commencing with
6 Section 50896) of Part 2 of Division 31 of the Health and Safety
7 Code) and shall authorize homeowner loans or grants with funds
8 that have not yet been expended *from those contracts* for mortgage,
9 grant, or take-out financing on behalf of eligible households.

10 (c) (1) The special grant and loan securitization pilot programs
11 authorized by Sections 2, 3, 4, and 5 of this act shall only apply
12 to Butte County, Merced County, Riverside County, Santa Clara
13 County, Sonoma County, and Yuba County.

14 (2) Notwithstanding paragraph (1), the Department of Housing
15 and Community Development may, in its discretion, include other
16 counties in the special grant and loan securitization pilot programs
17 in order to allow self-help housing projects to continue.

18 (d) The authority for the special grant and loan securitization
19 pilot programs authorized by this act shall expire on January 1,
20 2014, unless a later enacted statute, that is enacted before January
21 1, 2014, deletes or extends that date.

22 SEC. 7. The Legislature finds and declares that there are unique
23 circumstances concerning the housing needs in Butte County,
24 Merced County, Riverside County, Santa Clara County, Sonoma
25 County, and Yuba County necessitating the enactment of the
26 procedures contained in this act. It is therefore declared that a
27 general law cannot be made applicable within the meaning of
28 Section 16 of Article IV of the California Constitution, and that
29 the enactment of this act as a special law is necessary.